

Niti

**IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION NO.12/2022
IN
SECOND APPEAL NO.83/2017**

DAMIAO PANGO

... APPLICANT

Versus

RUMALDO PANGO
(DEC) THR. HIS LRS
AND ANR.

... RESPONDENTS

Mr. Nigel Da Costa Frias, Advocate for the Applicant.

Mr. A.D. Bhobe and Ms. S. Shaikh, Advocates for the Respondents.

CORAM: M. S. SONAK, J.

DATED: 9th June 2022

ORAL ORDER :

- 1.** Heard learned Counsel for the parties.
- 2.** The second appeal in which this civil application has been taken out has already been admitted vide order dated 08.09.2017.
- 3.** The appellant now seeks a stay on the execution of the impugned judgment and decree dated 29.05.2013. Mr. Costa Frias, learned Counsel for the appellant submits that the stay is restricted only to that portion of the decree which has directed

the demolition of the suit structure shown in the plan at Exhibit 98 colly situated in the suit property. He states that no stay is pressed insofar as the decree of permanent injunction restraining the appellant from carrying out any construction of the suit structure in the suit property.

4. The operative portion of the impugned judgment and decree reads as follows :

“ORDER

Suit of the plaintiffs is decreed with costs.

The defendant his agent, servants, relatives or any other person acting on his behalf are permanently restrained from carrying out any illegal construction of the suit structure in the suit property.

The defendant is hereby directed to demolish the suit structure as shown in the plan at exb 98 colly situated in the suit property.

Decree is drawn accordingly.”

5. Since, the appeal is already admitted, the portion of the decree which directs the appellant to demolish the suit structure as shown in plan at Exhibit 98 colly will have to be stayed and is hereby stayed. At the same time, the appellant is directed to maintain status quo in the sense that the appellant should also not make any further constructions in the suit property. As it is, the permanent injunction granted by the impugned decree is not being stayed and the appellant will have to abide by the same.

6. Mr. Bhobe complains that despite the injunction some construction activity was attempted by the appellant. Mr. Costa Frias disputes this position and states that no construction will be undertaken in the suit property.

7. The application for interim relief is partly allowed in the aforesaid terms. The same is disposed of without any orders for costs.

M. S. SONAK, J.

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